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2012 Edition

Motion Practice in Family Matters

A Guide to Resources in the Law Library

"As used in these rules, the term 'motion' means any application to the court for an order, which application is to be acted upon by the court or any judge thereof; and the term 'request' means any application to the court which shall be granted by the clerk by operation of these rules unless timely objection is filed."
CONN. PRACTICE BOOK [§ 11-2](#) (2012).

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These guides are provided with the understanding that they represent
only a beginning to research.

View our other pathfinders at
<http://www.jud.ct.gov/lawlib/selfguides.htm#Pathfinders>

This guide links to advance release slip opinions on the Connecticut Judicial Branch
website and to case law hosted on Google Scholar and Google Books.
The online versions are for informational purposes only.

**TREATED ELSEWHERE
(Related Research Guides)**

- [Discovery \(Financial\) in Family Matters](http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/FamilyDiscovery.pdf)
<http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/FamilyDiscovery.pdf>
- [Enforcement of Family and Foreign Matrimonial Judgments in Connecticut](http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/enforcement.pdf)
<http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/enforcement.pdf>
- [Intent to Argue](http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/argue.pdf)
<http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/argue.pdf>
- [Motion for Articulation](http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/Articulation.pdf)
<http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/Articulation.pdf>
- [Motion for Clarification](http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/clarification.pdf)
<http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/clarification.pdf>
- [Motion for Review](http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/review.pdf)
<http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/review.pdf>
- [Motion to Reargue](http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/Reargument.pdf)
<http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/Reargument.pdf>
- [Post-Judgment Proceedings in Connecticut Family Matters](http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/PostJudgment.pdf)
<http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/PostJudgment.pdf>

Section 1: Motions and Requests

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to family motions and requests motion practice in general.

DEFINITION:

- **Motion:** "means any application to the court for an order, which application is to be acted upon by the court or any judge thereof . . ." CONN. PRACTICE BOOK [§ 11-2](#) (2012).
- **Request:** "means any application to the court which shall be granted by the clerk by operation of these rules unless timely objection is filed." CONN. PRACTICE BOOK [§ 11-2](#) (2012).
- **Requirements:** "Every motion, request, application or objection directed to pleading or procedure, unless relating to procedure in the course of a trial, shall be in writing." CONN. PRACTICE BOOK [§ 11-1](#) (2012).
- "Each such motion shall state clearly, in the caption of the motion, whether it is a pendente lite or a postjudgment motion." CONN. PRACTICE BOOK [§ 25-24\(b\)](#) (2012).
- "In addition, Practice Book § 10-3(a) provides in relevant part that, '[w]hen any claim made in a . . . pleading is grounded on a statute, the statute shall be specifically identified by its number.'" [Remillard v. Remillard](#), 297 Conn. 345, 999 A.2d 713 (2010).
- **Due Process:** "It is a fundamental premise of due process that a court cannot adjudicate a matter until the persons directly concerned have been notified of its pendency and have been given a reasonable opportunity to be heard in sufficient time to prepare their positions on the issues involved." [Costello v. Costello](#), 186 Conn. 773, 776-777, 443 A.2d 1282 (1982).

COURT RULES:

- CONNECTICUT PRACTICE BOOK (2012)
 - Chapter 11 — Motions, Requests, Orders of Notice, and Short Calendar
 - [§ 11-1](#). **Form of Motion and Request.**
 - [§ 11-2](#). Definition of "Motion" and "Request"
 - Chapter 25 — Procedure in Family Matters
 - [§ 25-11](#). Pleadings in General—Order of Pleadings
 - [§ 25-12](#). Motion to Dismiss
 - [§ 25-13](#). —Grounds on Motion to Dismiss
 - [§ 25-14](#). —Waiver and Subject Matter Jurisdiction
 - [§ 25-15](#). —Further Pleading by Defendant
 - [§ 25-16](#). Motion to Strike; In General
 - [§ 25-17](#). —Date for Hearing
 - [§ 25-18](#). —Reasons

[§ 25-19.](#) —Memorandum of Law

[§ 25-20.](#) —When Memorandum of Decision Required

[§ 25-23.](#) Motions, Requests, Orders of Notice, and Short Calendar

“The provisions of Sections 11-1, 11-2, 11-4, 11-5, 11-6, 11-8, 11-10, 11-11, 11-12, 11-19, 11-20, 12-1, 12-2, and 12-3 of the rules of practice shall apply to family matters as defined in Section 25-1.”

[§ 25-24.](#) Motions

- (a) Any appropriate party may move for alimony, child support, custody, visitation, appointment of counsel for the minor child, counsel fees, or for an order with respect to the maintenance of the family or for any other equitable relief.

[§ 25-25.](#) Motion for Exclusive Possession

[§ 25-51.](#) When Motion for Default for Failure to Appear Does Not Apply

“Any case claiming a dissolution of marriage or civil union, legal separation, or annulment...”

FORMS:

- Connecticut Judicial Branch, Official Court Webforms

[Individual Family Forms](#)

[Grouped by Type of Case](#)

- Thomas D. Colin, Editor, [LIBRARY OF CONNECTICUT FAMILY LAW FORMS](#) (2008).

Form #

1-008 – Motion for Permission to Amend Complaint and to Cite Additional Parties

1-022 - Motion to Dismiss

1-023 - Motion to Withdraw Appearance

1-024 - Motion for Closed Hearings and Records

1-025 - Request for Nondisclosure of Location Information (court form)

1-026 - Motion for Intervention in Family Matters (court form)

1-027 - Motion for Order Re Referral to Regional Family Trial Docket

1-028 - Motion for Continuance (court form)

1-029 - Case Management Agreement (court form)

1-030 - Short Calendar List Claim/Reclaim (court form)

1-031 - Facsimile Filing Cover Sheet (court form)

2-004 - Motion to Compel Financial Affidavit

4-001 - Motion for Orders Re: Alimony

4-002 - Motion for Alimony and Support

4-003 - Motion for Alimony, Custody, Support and Counsel Fees

4-004 - Claims for Relief Re: Alimony

4-005 - Motion for Custody and Parenting Plan

4-010 - Emergency Motion for Sole Custody

4-011 - Motion for Permission to Relocate

FORMS:
(Continued)

- 4-012 - Request for Conciliation
- 4-013 - Motion to Reopen and Restore
- 4-014 - Motion to Return Matter to the Regular Docket
- 4-015 - Motion for Exclusive Possession
- 4-016 - Objection to Motion for Exclusive Use
- 4-017 - Motion for Psychological Evaluation
- 4-018 - Motion to Appoint Mental Health Professional
- 4-019 - Counsel for the Minor Children's Motion for Order
Re: Therapy
- 4-020 - Motion for Private Evaluator to Update Report
- 4-021 - Motion for Order Re: Entering Agreement of the
Parties
- 4-022 - Motion for Order Re: Appraisal
- 4-023 - Motion for Order Re: Telephone Communications
- 4-024 - Motion for Order Re: Sale of Home
- 4-025 - Motion for Order to Fix Deposition Date
- 4-026 - Motion to Schedule Status Conference
- 4-027 - Motion to Expunge
- 4-028 - Motion to Enjoin
- 4-029 - Motion for Order Re: Return of Documents and
Tangible
- 4-030 - Motion for Orders Before Judgment in Family Cases
(court form)
- 4-031 - Request for Leave (court form)
- 4-032 - Motion to Approve Arbitration Agreement in Family
Cases (court form)
- 4-033 - Motion for Hearing Under *State v. Porter*
- 7-001 - Motion for Counsel Fees
- 7-002 - Motion for Counsel and Expert Fees
- 7-003 - Affidavit of Services
- 7-004 - Motion for Approval of Fees and Costs
- 7-005 - Application for Waiver of Fees/Appointment of
Counsel (court form)
- 7-006 - Disclosure of Expert Witness
- 7-007 - Motion to Appoint Mental Health Professional
- 8-001 - Motion for Contempt (court form)
- 8-002 - Motion for Contempt Re: Violation of Automatic
Orders
- 8-003 - Motion for Contempt Re: Alimony Payments
- 11-007 - Motion in Limine
- 13-001 - Motion for Modification (court form)
- 13-002 - Motion to Modify Parenting Plan
- 13-003 - Post-Judgment Motion for Modification of Child
Support (Version 1)
- 13-004 - Post-Judgment Motion for Modification of Child
Support (Version 2)
- 13-005 - Modification Agreement
Post-Judgment Relief
- 13-006 - Post-Judgment Motion for Order of Compliance
- 13-007 - Post-Judgment Motion in Limine
- 13-008 - Motion for Contempt Re: Failure to Comply with
Separation Agreement
- 13-009 - Motion for Articulation
- 13-010 - Motion to Open Judgment (court form)

13-011 - Post-Judgment Motion to Open Judgment
13-012 - Motion to Dismiss Forum Non Conveniens

- 2 JOEL M. KAYE AND WAYNE D. EFFRON, [CONNECTICUT PRACTICE SERIES, CIVIL PRACTICE FORMS](#) (4th ed. 2004).
- 7 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, [FAMILY LAW AND PRACTICE WITH FORMS](#) (3D ED. 2010).
- MARY ELLEN WYNN AND ELLEN B. LUBELL, [HANDBOOK OF FORMS FOR THE CONNECTICUT FAMILY LAWYER](#) (1991).

CASES:

- [Costello v. Costello](#), 186 Conn. 773, 776-777, 443 A.2d 1282 (1982). "It is a fundamental premise of due process that a court cannot adjudicate a matter until the persons directly concerned have been notified of its pendency and have been given a reasonable opportunity to be heard in sufficient time to prepare their positions on the issues involved."
- [Ahneman v. Ahneman](#), 243 Conn. 471, 484 (1998). "More fundamentally, basic principles of jurisprudence refute the plaintiff's proposition that a trial court has discretion, based on notions of judicial efficiency, to decline to exercise its jurisdiction by refusing to consider certain motions. Courts are in the business of ruling on litigants' contentions . . ."
- [Ramin v. Ramin](#), 281 Conn. 324, 915 A.2d 790 (2007). "We also recognized, in *Ahneman*, however, 'that exceptions to the general rule that a trial court must consider and decide on a reasonably prompt basis all motions properly placed before it may exist *in an extreme, compelling situation*. For example..."
- [Eckert v. Eckert](#), 285 Conn. 687, 941 A. 2d 301 (2008). "Relying on our decision in *Ahneman v. Ahneman*, 243 Conn. 471, 480, 706 A.2d 960 (1998), the plaintiff contends that the trial court's grant of the defendant's objection without first holding an evidentiary hearing amounted to a refusal to consider her motion for alteration or modification. *Ahneman*, however, is readily distinguishable from the present case. In that case, the trial court had rendered an oral decision specifically declining to consider the subject motions. *Id.*, at 475, 706 A.2d 960. The trial court in the present case did not so decline consideration of the plaintiffs motion. The court heard argument on the defendant's objection on October 12, 2005. During the course of that argument, both parties presented arguments to the court in support of their interpretation of the separation agreement."
- [Rosenfeld v. Rosenfeld](#), 115 Conn.App. 570, 577-578, 974 A. 2d 40 (2009). "It is hornbook law that a court's decision whether to grant a motion for a continuance ordinarily is left to the court's discretion."

**TEXTS &
TREATISES:**

- 2 RALPH P. DUPONT, [DUPONT ON CONNECTICUT CIVIL PROCEDURE](#) (2011-2012).
§§ 25-23 et seq. Motion Practice in Family Matters
- 7 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, [FAMILY LAW AND PRACTICE WITH FORMS](#) (3D ED. 2010).
Chapter 20 – Pretrial Procedures and Preparation
§ 20: 1 – Motions — Generally
Chapter 52 – Postjudgment Motions
- 1 [FAMILY LAW PRACTICE IN CONNECTICUT](#) (1996)
Chapter 4, *Motion Practice in Matrimonial Actions*, by Sandra P. Lax
Chapter 5, *Motion Practice before Trial*, by Sheldon A. Rosenbaum
 - I. Scope of chapter
 - II. Motions, petitions, and orders in general
 - III. Procedural motions
 - IV. Substantive motions
 - V. Modifications
 - VI. Enforcement of orders of temporary relief and injunctive relief
 - VII. Conclusions

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- * Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Section 2: Transfer of Action in Family Matters

A Guide to Resources in the Law Library

- SCOPE:** Bibliographic resources relating to the transfer of action on the family docket
- SEE ALSO:**
- [Transfer of Action](#) (Research Guide)
- DEFINITIONS:**
- **Venue vs. Jurisdiction:** "'While jurisdiction is the power and authority of the court to act, venue is the place where the power to adjudicate is to be exercised, that is, the place where the suit may or should be heard. The requirements of jurisdiction are grounded in the state's inherent judicial power, while the requirements of venue are grounded in convenience to litigants. Venue does not involve a jurisdictional question but rather a procedural one, and thus is a matter that goes to process rather than substantive rights. Moreover, although a court's lack of subject-matter jurisdiction cannot be waived, improper venue may be waived and may be changed by the consent of the parties.' . . . ('[s]tatutory venue requirements simply [confer] a privilege not to be required to attend court at a particular location' [internal quotation marks omitted]).'" Lebron v. Commissioner of Correction, 274 Conn. 507, 522, 876 A.2d 1178 (2005).
- STATUTES:**
- CONN. GEN. STAT. (2011)
Chapter [890](#). Judicial districts, geographical areas, civil and criminal venue, filing and designation of court locations
§ [51-347b](#). Transfer of causes by court, motion or agreement. Transfer by Chief Court Administrator
- COURT RULES:**
- CONN. PRACTICE BOOK (2012).
Chapter 12 Transfer of action [to another Judicial District]
§ [12-1](#). Procedure for transfer
§ [12-2](#). Transfer of action filed in wrong location of correct court
§ [12-3](#). Transmission of files and papers
- FORMS:**
- 2 CONN. PRACTICE BOOK (1997)
Form 106.13. Motion for change of venue
Form 106.17. Transfer of Action
Stipulation, Motion and Order. Transfer for trial of issues only.
 - 2 JOEL M. KAYE AND WAYNE D. EFFRON, [CONNECTICUT PRACTICE](#)

[SERIES, CIVIL PRACTICE FORMS](#) (4th ed. 2004).

Form 106.13-A.

“all of the parties, as well as the plaintiff’s attorney,
reside in the Town of . . .”

Form 106.13-B. Stipulation for transfer

- MARY ELLEN WYNN AND ELLEN B. LUBELL, [HANDBOOK OF FORMS FOR THE CONNECTICUT FAMILY LAWYER](#) (1991).

Form No. XX-A-3, Motion for Transfer, p. 272

Includes order and certification

- 1 [FAMILY LAW PRACTICE IN CONNECTICUT](#) (1996)

Chapter 5. Motion Practice Before Trial

§ 5.19 Motion to transfer

CASES:

- [Adams v. Adams](#), 93 Conn. App. 423, 426, 890 A.2d 575, (2006). “Any cause, or the trial of any issue therein, may be transferred from a judicial district court location to any other judicial court location . . . by order of a judicial authority . . . upon its own motion or upon the granting of a motion of any of the parties . . .’ Practice Book § 12-1; see also General Statutes § 51-347a(a) (transfer of civil jury causes). In the context of criminal actions, a defendant requesting a change of venue bears the burden of showing that, absent a change of venue, he could not receive a fair and impartial trial. *State v. Reynolds*, 264 Conn. 1, 222, 836 A.2d 224 (2003), cert. denied, 541 U.S. 908, 124 S.Ct. 1614, 158 L.Ed.2d 254 (2004). A trial court exercises broad discretion in considering such a motion . . . Those principles apply, with at least equal force, to the defendant’s request for a change of venue in his divorce proceeding.”
- [Savings Bank of Danbury v. Downs](#), 74 Conn. 87, 90 (1901). “. . . written stipulation by both parties for a transfer of action has been filed; and, for that, filing an answer cannot be regarded as an equivalent.”

WEST KEY

NUMBER:

- *Courts*
Transfer of causes
#487(9). Proceedings
- *Venue* # 33-84

ENCYCLOPEDIAS:

- 77 [Am Jur 2d](#) *Venue* (2006)
 - § 1. Definitions
 - § 2. —Jurisdiction distinguished
 - § 3. Party’s choice of venue as right or privilege
 - § 4. As governed by by statute, rule, constitutional provision
 - § 5. —Constitutional limitations
 - § 7. Retroactive application of venue statute
 - § 8. Determining proper venue; Time as of which determination is made
 - § 9. Right to sue in more than one venue
 - § 42. Objections to venue; Waiver and loss of right to

object; Generally; Who may raise objection
 § 47. Change of venue; In general; Right to change in general
 § 53. Grounds, generally
 § 61. Application and determination; Terms and manner of application, generally; form; notice
 § 70. Order; Form and content; designation of new venue; generally

- 92A [C.J.S. Venue](#) (2010).
 - § 128. Actions in which change maybe granted; generally
 - § 129. Special statutory actions
 - § 130. Supplemental, ancillary or incidental proceedings
 - § 131. Proceedings to nullify or vacate judgments
 - § 133. Domestic relations
 - § 139. Who may secure change of venue; Generally
 - § 140. Intervenor and impleaded parties
 - § 141. Substitute parties
 - § 142. Rights of coparties; Consent requirements
 - § 143. Nature of consent required
 - § 144. Binding nature of change as to coparties
 - § 145. Grounds for change of venue; In general
 - § 150. Failure to commence action in correct venue

**TEXTS &
TREATISES:**

- 1 WESLEY W. HORTON AND KIMBERLY A. KNOX, [CONNECTICUT PRACTICE BOOK ANNOTATED](#) (2011-2012 ed.).
 Authors' comments following §§ 12-1 to 12-3
- 1 [FAMILY LAW PRACTICE IN CONNECTICUT](#) (1996)
 Chapter 5. Motion Practice Before Trial
 § 5.19 Motion to transfer
- 1 RALPH P. DUPONT, [DUPONT ON CONNECTICUT CIVIL PROCEDURE](#) (2011-2012 ed.).
 - § 12-1.1. Return to improper locations
 - § 12-1.2. Venue improper; Transfer to proper district
 - § 12-2.1. Clerk not to accept process; When
 - § 12-2.2. Dismissal for improper venue
 - § 12-3.1. Ministerial duties of clerk on transfer
 - § 12-3.2. Trial list; Transferred case placed on
- JEANINE M. DUMONT, [PLEADINGS AND PRETRIAL PRACTICE: A DESKBOOK FOR CONNECTICUT LITIGATORS](#) (1998 ed.).
 - § II. Basic pleading and practice rules
 - 8. Venue, pp. 28-30.
 - a. Procedure for effectuating transfer
 - b. Multiple plaintiffs
 - c. Timely motion to transfer/Dismiss
 - d. Deference to plaintiff's selection of venue
 - e. Transfer to a more crowded docket
 - f. Transfers for the convenience of lawyers not favored
 - g. Effect of improper venue

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* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Table 1: Motion for Exclusive Possession of Home

Motion for Exclusive Possession of Home	
STATUTES:	<p>"The court may also award exclusive use of the family home or any other dwelling unit which is available for use as a residence pendente lite to either of the parties as is just and equitable without regard to the respective interests of the parties in the property." CONN. GEN. STATS. § 46b-83 (2011).</p>
COURT RULES:	<p>Motion for Exclusive Possession</p> <p>Each motion for exclusive possession shall state the nature of the property, whether it is rental property or owned by the parties or one of them, the length of tenancy or ownership of each party, the current family members residing therein and the grounds upon which the moving party seeks exclusive possession. CONN. PRACTICE BOOK § 25-25 (2012).</p>
FORMS:	<ul style="list-style-type: none"> • Thomas D. Colin, Editor, LIBRARY OF CONNECTICUT FAMILY LAW FORMS (2008). Form 4-015 - <i>Motion for Exclusive Possession</i> Form 4-016 - <i>Objection to Motion for Exclusive Use</i> • 3 JOEL M. KAYE AND WAYNE D. EFFRON, CONNECTICUT PRACTICE SERIES, CIVIL PRACTICE FORMS (4th ed. 2004), § 504.1-M. <i>Motion to vacate premises</i> • MARY ELLEN WYNN AND ELLEN B. LUBELL, HANDBOOK OF FORMS FOR THE CONNECTICUT FAMILY LAWYER (1991). Form VI-E-1. <i>Motion for exclusive possession</i>, p. 120. • 1 FAMILY LAW PRACTICE IN CONNECTICUT (1996), Chapter 5, <i>Motion Practice before Trial</i> by Sheldon A. Rosenbaum § 5.72. <i>Motion for Exclusive Possession</i>
TEXTS & TREATISES:	<ul style="list-style-type: none"> • 7 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS (3D ED. 2010). § 25.7. Temporary use of the marital home • 1 FAMILY LAW PRACTICE IN CONNECTICUT (1996), Chapter 5, <i>Motion Practice before Trial</i> by Sheldon A. Rosenbaum § 5.71. Exclusive use of residence • MARY ELLEN WYNN AND ELLEN B. LUBELL, HANDBOOK OF FORMS FOR THE CONNECTICUT FAMILY LAWYER (1991). Exclusive possession of the Family Home Pendente Lite: Notes and Comments

Section 3: Request for Conciliation

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to attempts for reconciliation in action for dissolution of marriage, legal separation or annulment.

DEFINITIONS:

- **Conciliation:** "On or after the return day of a complaint seeking the dissolution of a marriage or a legal separation and prior to the expiration of the ninety-day period specified in section 46b-67 either spouse or the counsel for any minor children of the marriage may submit a request for conciliation to the clerk of the court." CONN. GEN. STATS. [§ 46b-53\(a\)](#) (2011).
- **Conciliator:** "The clerk shall forthwith enter an order that the parties meet with a conciliator mutually acceptable to them or, if the parties cannot agree as to a conciliator, with a conciliator named by the court. The conciliator shall, in any case, be a clergyman, a physician, a domestic relations officer or a person experienced in marriage counseling." CONN. GEN. STATS. [§ 46b-53\(a\)](#) (2011).
- **Mandatory consultations:** (b) "Within such ninety-day period or within thirty days of the request, whichever is later, there shall be two mandatory consultations with the conciliator by each party to explore the possibility of reconciliation or of resolving the emotional problems which might lead to continuing conflicts following the dissolution of the marriage Further consultations may be held with the consent of both parties, or, if the conciliator recommends one or more additional consultations and either one of the parties agrees, the court may order such additional consultations." CONN. GEN. STATS. [§ 46b-53\(b\)](#) (2011).
- **Failure to attend:** "Failure of the plaintiff or defendant to attend these consultations except for good cause shall preclude further action on the complaint until the expiration of six months from the date of the return day; provided the court may order the termination of such stay, upon the motion of either party and for good cause shown." CONN. GEN. STATS. [§ 46b-53\(b\)](#) (2011).
- **Privileged communication:** "All communications during these consultations shall be absolutely privileged, except that the conciliator shall report to the court whether or not the parties attended the consultations." CONN. GEN. STATS. [§ 46b-53\(c\)](#) (2008).
- **Fees:** "The reasonable fees of the conciliator shall be paid by one or both of the parties as the court directs. No fee shall be charged by a domestic relations officer for such services. If the parties are unable to pay the fees which may be charged by the conciliator, only a domestic relations officer may be named as

the conciliator." CONN. GEN. STATS. [§ 46b-53](#)(d) (2008).

STATUTES:

- CONN. GEN. STAT. (2011)
[§ 46b-10. Attempt at reconciliation in action for dissolution of marriage, legal separation or annulment.](#) In any action for dissolution of marriage, legal separation or annulment, at any time before final judgment any judge may require that either or both parties appear before any judge, referee or other disinterested person for the purpose of attempting a reconciliation or adjustment of differences between the parties. Any person designated under the provisions of this section may be a family relations counselor or family relations caseworker and such person shall have all the powers provided in chapter 910. Such person shall report to the court only the fact of whether or not reconciliation can be effected and shall not divulge information given to him by the parties except with the consent of all parties.

[§ 46b-53. Conciliation procedures; privileged communication](#)
See definitions above for text of statute

FORMS:

- Thomas D. Colin, Editor, [LIBRARY OF CONNECTICUT FAMILY LAW FORMS](#), (2008).
Form #
4-012 - Request for Conciliation
4-013 - Motion to Reopen and Restore
4-014 - Motion to Return Matter to the Regular Docket
- MARY ELLEN WYNN AND ELLEN B. LUBELL, [HANDBOOK OF FORMS FOR THE CONNECTICUT FAMILY LAWYER](#) (1991).
Request for Conciliation, Form VI-D-1, p. 118.
- 1 [FAMILY LAW PRACTICE IN CONNECTICUT](#) (1996).
§ 5.81. Form- Request for Reconciliation, p. 5-69

CASES:

- [Weinberg v. Weinberg](#), 89 Conn.App. 649, 874 A.2d 321 (2005).
"The court did not abuse its discretion by denying the defendant's oral motion for conciliation. The statute under which the defendant sought conciliation does not mandate that the court order conciliation on request. Rather, it provides that a court may order conciliation. General Statutes § 46b-10. The court heard ample testimony from the plaintiff that the marriage had broken down irretrievably, and the court was, therefore, within its discretion to find that the marriage had broken down irretrievably."
- [Cabrera v. Cabrera](#), 23 Conn. App. 330, 338, 580 A.2d 1227 (1990). "The public policy underlying this statute in general and the latter provision in particular must, in part, have been intended to encourage marital reconciliation by providing a safe, confidential setting in which problems as well as possible

solutions could be explored fully and honestly."

- [Emerick v. Emerick](#), 5 Conn. App. 649, 657-658, 502 A.2d 933 (1985). "A conciliator is, by statutory definition, a clergyman, a physician, a domestic relations officer or a person experienced in marriage counseling. General Statutes 46b-53(a)."

**TEXTS &
TREATISES:**

- 7 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, [FAMILY LAW AND PRACTICE WITH FORMS](#) (3D ED. 2010).
§ 20.7. Requests for conciliation
- 1 [FAMILY LAW PRACTICE IN CONNECTICUT](#) (1996).
§ 5.80. Conciliation
- MARY ELLEN WYNN AND ELLEN B. LUBELL, [HANDBOOK OF FORMS FOR THE CONNECTICUT FAMILY LAWYER](#) (1991).
Conciliation: Notes & Comments, p. 117.

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860-515-5110. [Email](#)

* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Section 4: Motion to Open Judgment in a Family Matter

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the motion to open or set aside judgment in a family matter, including opening judgment after statutory four month limitation.

- DEFINITIONS:**
- **Motion to Open or set aside:** "Unless otherwise provided by law and except in such cases in which the court has continuing jurisdiction, any civil judgment or decree rendered in the superior court may not be opened or set aside unless a motion to open or set aside is filed within four months succeeding the date on which notice was sent. The parties may waive the provisions of this subsection or otherwise submit to the jurisdiction of the court." CONN. PRACTICE BOOK (2012) [§ 17-4\(a\)](#).
 - **Requirements:** "Every motion, request, application or objection directed to pleading or procedure, unless relating to procedure in the course of a trial, shall be in writing." CONN. PRACTICE BOOK [§ 11-1](#) (2012).
 - "Each such motion shall state clearly, in the caption of the motion, whether it is a pendente lite or a postjudgment motion." CONN. PRACTICE BOOK [§ 25-24\(b\)](#) (2012).
 - "A judgment rendered may be opened after the four month limitation if it is shown that the judgment was obtained by fraud, in the absence of actual consent, or because of mutual mistake." [Richards v. Richards](#), 78 Conn. App. 734, 739, 829 A.2d 60 (2003).
 - **Fraud:** "'consists in deception practiced in order to induce another to part with property or surrender some legal right, and which accomplishes the end designed. . . . The elements of a fraud action are: (1) a false representation was made as a statement of fact; (2) the statement was untrue and known to be so by its maker; (3) the statement was made with the intent of inducing reliance thereon; and (4) the other party relied on the statement to his detriment. . . . A marital judgment based upon a stipulation may be opened if the stipulation, and thus the judgment, was obtained by fraud.' (Citations omitted; internal quotation marks omitted.) *Billington v. Billington*, 220 Conn. 212, 217-18, 595 A.2d 1377 (1991). A court's determinations as to the elements of fraud are findings of fact that we will not disturb unless they are clearly erroneous. *Anastasia v. Beautiful You Hair Designs, Inc.*, 61 Conn. App. 471, 478, 767 A.2d 118 (2001)." [Mattson v. Mattson](#), 74 Conn. App. 242, 245, 811 A.2d

256 (2002).

- **Clear Proof of Fraud:** “. . . to prevail, the defendant was required to present ‘clear proof’ of the plaintiff’s alleged fraud at the hearing on his motion to open.” [Mattson v. Mattson](#), 74 Conn. App. 242, 245, 811 A.2d 256 (2002) fn 4.
- **Intention to Remarry:** “Furthermore, the plaintiff’s failure to disclose her intention to remarry cannot amount to fraudulent nondisclosure. The mere intention to perform an act in the future cannot be considered a ‘known fact’ because a party’s intention to perform may never materialize into actual performance.” [Pospisil v. Pospisil](#), 59 Conn. App. 446, 451, 757 A.2d 655 (2000).

STATUTES:

- CONN. GEN. STAT. (2011).
[§ 52-212a](#). Civil judgment or decree reopened or set aside within four months only.

**COURT
RULES:**

- CONNECTICUT PRACTICE BOOK (2012)
[§ 17-4](#). Setting Aside or Opening Judgments

FORMS:

- Connecticut Judicial Branch, Official Court Webforms
[JD-FM-206](#). Motion to Open Judgment (Family Matters)
- Thomas D. Colin, Editor, [LIBRARY OF CONNECTICUT FAMILY LAW FORMS](#) (2008).
Form #
13-010 - Motion to Open Judgment (court form)
13-011 - Post-Judgment Motion to Open Judgment
- MARY ELLEN WYNN AND ELLEN B. LUBELL, [HANDBOOK OF FORMS FOR THE CONNECTICUT FAMILY LAWYER](#) (1991).
“Motion to Open Judgment,” Form XVI-B-1c, p. 243.
Pension not previously disclosed.

CASES:

- [Dougan v. Dougan](#), 301 Conn. 361, 21 A. 3d 791 (2011). “‘It necessarily follows that if the judgment conforms to the stipulation it cannot be altered or set aside without the consent of all the parties, unless it is shown that the stipulation was obtained by fraud, accident or mistake. . . . For a judgment by consent is just as conclusive as one rendered upon controverted facts.’ (Citations omitted; internal quotation marks omitted.) *Gillis v. Gillis*, 214 Conn. 336, 339-40, 572 A.2d 323 (1990); see also *Afkari-Ahmadi v. Fotovat-Ahmadi*, 294 Conn. 384, 389-90, 985 A.2d 319 (2009).”
- [Weinstein v. Weinstein](#), 275 Conn. at 671, 882 A.2d 53 (2005). “‘There are three limitations on a court’s ability to grant relief from a dissolution judgment secured by fraud: (1) there must have been no laches or unreasonable delay by the injured party after the fraud was discovered; (2) there must be clear proof of the fraud; and (3) there is a substantial likelihood that the result of the new trial will be different.’ (Citations omitted; internal

CASES:
(Continued)

quotation marks omitted.) *Mattson v. Mattson*, 74 Conn. App. 242, 244-46, 811 A.2d 256 (2002). Because there is no claim of undue delay in the present case, we limit our consideration to whether there was sufficient proof of fraud and whether the result in a new trial would differ.

- [Richards v. Richards](#), 78 Conn. App. 734, 740-741, 829 A.2d 60 (2003). "Because there was no finding of mutual mistake as to the definition of 'cash disbursement' or any other basis established by § 52-212a, the defendant is correct in challenging the court's authority to open the judgment. We therefore have jurisdiction to hear the claim and conclude that the court lacked authority to open the judgment."
- [Mattson v. Mattson](#), 74 Conn. App. 242, 245-246, 811 A.2d 256 (2002). "There are three limitations on a court's ability to grant relief from a dissolution judgment secured by fraud: '(1) there must have been no laches or unreasonable delay by the injured party after the fraud was discovered; (2) there must be **clear proof** of the fraud; and (3) there is a substantial likelihood that the result of the new trial will be different.' *Billington v. Billington*, supra, [220 Conn. 212,] 218 [595 A.2d 1377 (1991)]." (Emphasis added.) *Pospisil v. Pospisil*, supra, 59 Conn. App. [446,]450 [757 A.2d 655(2000)]."
- [Pospisil v. Pospisil](#), 59 Conn. App. 446, 450-451, 757 A.2d 655 (2000). "In the present case, it is clear that the plaintiff harbored, but never disclosed, an intention to remarry at some point after the dissolution of her marriage with the defendant. At no point during the dissolution proceedings, however, did the court or the defendant ever question the plaintiff about her intentions to remarry. Thus, we are satisfied that the plaintiff did not deliberately conceal or purposely mislead the court or the defendant about her intention to remarry."
- [Townsley v. Townsley](#), 37 Conn. App. 100, 101, 654 A.2d 1261 (1995). "The dispositive issue on appeal is whether the trial court improperly opened the dissolution judgment as to all issues when the plaintiff's motion to open was for a limited discrete purpose."
"By opening the judgment as to all issues, the trial court abused its discretion." (p. 104).
- [Billington v. Billington](#), 220 Conn. 212, 214, 595 A.2d 1377 (1991). "The principal issue in this certified appeal is whether a party to a marital dissolution judgment must establish, in order subsequently to open the judgment based upon a claim of fraud, that she was diligent during the original action in attempting to discover the fraud. We conclude that the movant need not establish such diligence, and accordingly reverse the judgment of the Appellate Court."
- [Breen v. Breen](#), 18 Conn. App. 166, 172, 557 A.2d 140 (1989). "It is well recognized that '[t]he opening . . . of a judgment . . .

is at the legal discretion of the court. *Tyler v. Aspinwall*, 73 Conn. 493, 47 A. 755 [1901] . . . [I]t "is not to be granted readily, nor without strong reasons" *Wildman v. Wildman*, 72 Conn. 262, 270, 44 A. 244 [1899].¹ *McCulloch v. Pittsburgh Plate Glass Co.*, 107 Conn. 164, 167, 140 A. 114 (1927). ` The motion should not be granted merely to allow the court to reconsider its decisions on the facts and its exercise of discretion.

- [Oneglia v. Oneglia](#), 14 Conn. App. 267, 540 A.2d 713 (1988). "In family matters, the court exercises its equitable powers. The balancing of equities is a matter which falls within the discretion of the trial court. . . .For that reason, equitable remedies are not bound by formula but are molded to the needs of justice." (Citations omitted.)

TEXTS & TREATISES:

- 7 ARNOLD H. RUTKIN ET AL., CONNECTICUT PRACTICE SERIES, [FAMILY LAW AND PRACTICE WITH FORMS](#) (3D ED. 2010).
 - § 52.4. Motion to reopen or vacate judgment
 - § 52.5. Time for setting aside or opening judgments
 - § 52.6. Grounds for opening or setting aside judgment
 - § 52.7. Motion to reopen or set aside judgment on the basis of fraud
 - § 52.8. Standard of proof for fraud
 - § 52.9. Discovery to pursue claim of fraud
 - § 52.10. Fraud on the court distinguished
 - § 52.11. Lack of jurisdiction
 - § 52-12. Request for new trial
- 1 WESLEY HORTON AND KIMBERLY A. KNOX, CONNECTICUT PRACTICE SERIES, [PRACTICE BOOK ANNOTATED, SUPERIOR COURT CIVIL RULES](#) (2011-2012 edition).
 - Authors' comments following § 17-4.
- 2 RALPH P. DUPONT, [DUPONT ON CONNECTICUT CIVIL PRACTICE](#) (2011–2012 ed.).
 - § 17-4.4. Opening or setting aside judgment; Appeal from
- JEANINE M. DUMONT, [PLEADINGS AND PRETRIAL PRACTICE](#) (1998 ed.)
 - XIV. Motions to set aside or open, reargue, correct, articulate and enforce settlements, and the accidental failure of suit statute
 - 2. Motions to set aside or open judgment
 - 3. Motions to open judgment

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* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.